

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON"BLE MR JUSTICE M.H.S. ANSARI

-

WRIT PETITION NO : 21570 of 1995

Between:

Mohd.Gouse Mohiuddin Siddiquy,

S/o Gulam Mahboob,

Aged 60 years, Retired Arabic Editor,
Dairatul Maarifil Osmaniya University,

R/o Mogalpura, Hyderabad

..... PETITIONER

AND

1. Secretary to Government, Education Department,
Secretariat Buildings, Hyderabad
2. The Vice-Chancellor, Osmaniya University
Hyderabad
3. The Director Dairatul Maarif, Osmaniya University,
Hyderabad

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any other appropriate writ order or direction declaring the action of the respondent in not paying the pension and pensionary benefits to the petitioner and other retired employees of Dairatul Maarif as illegal, null and void, arbitrary and contrary to the principles of natural justice and for a consequential direction directing the respondents to pay the pension and pensionary benefits to the petitioner and other retired employees of Dairatul Marrif forthwith.

Counsel for the Petitioner: MR.MOHD.ZIA-UL-HAQ

Counsel for Respondent No.2: MR.M.VISHNU VARDHAN REDDY (SC FOR OSMANIA)

Counsel for Respondent No.1: GOVERNMENT PLEADER FOR EDUCATION.

Counsel for Respondent No.3: MR.DEEPAK BHATTACHARJEE

The Court made the following:

ORDER:

Sole petitioner has questioned the action of the respondents in denying him the benefit of pension. The case of the petitioner is that he is an employee of the institution known as "Dairatul Maarif Osmania University". It is the further case of the petitioner that when Osmania University was established in the year 1916, the institution came to be attached to the university. On the other hand, it is seen from the counter-affidavit of the respondent-University that the institution-Dairatul Maarif is an independent body and the employees are governed by the Hyderabad Civil Service Rules. They are not the employees of the university nor governed by the rules applicable to the employees of the Osmania University.

It is averred in the writ application that employees of the institution, who entered service of the Daira prior to 1953, have been allowed pensionary benefits, while the employees such as the petitioner who were appointed subsequently have been denied pensionary benefits. It is not disputed that the post-1953 employees have been granted benefit of provident fund.

In G.O.Ms.No.2864, dated 01-12-1966, Government ordered necessary amendment to the exception to Rule 248 of the Hyderabad Civil Service Rules. In the said Government Order, it is stated that Government have considered the question of allowing pensionary benefits to the permanent employees of Dairatul Maarif and such other employees who have been appointed against

permanent post which were in existence in 1953 under Hyderabad Civil Service Rules and to make all persons who have entered service on or after 01-04-1963 members of provident fund. Accordingly, directions were issued by the State Government directing that all employees of Dairatul Maarif who entered the service of the Daira prior to 1953, shall be allowed the pensionary benefits under Rule 248 of Hyderabad Civil Service Rules. The employees appointed to the service of Dairatul Maarif from 1953 will be made members of the provident fund to be set up when they are confirmed in their positions.

By a further G.O.Ms.No.53, dated 21-03-1967, the Exception (1) under Rule 248 of Hyderabad Civil Service Rules was substituted by incorporating the intention of the Government as above.

Petitioner has not questioned the G.O.Ms.No.2864, dated 01-12-1966 or the Rule 248 as amended. In the circumstances, petitioner has disentitled himself to the relief as prayed for.

The action of the respondents being in conformity with the aforesaid Government decision dated 01-12-1966 and the amended Rule 248, no infirmity or illegality can be found with such action, unless the Rule suffers from any legal infirmity. There being no such challenge to the same, writ petition is liable to be and is accordingly dismissed.

10-02-2005.

Lrkm.

To

1. Secretary to Government, Education Department,
Secretariat Buildings, Hyderabad
2. The Vice-Chancellor, Osmania University
Hyderabad
3. The Director, Dairatul Maarif, Osmania University,
Hyderabad
4. The Governemnt Pleader for Education, High Court Buildings, High
Court of A.P., Hyderabad (O.U.T).
5. 2 CD copies.
6. 1 CC to MR.DEEPAK BHATTACHARJEE.